

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

In re:
CHARLESTON ASSOCIATES, LLC,
Debtor.

Case No. 2:14-cv-00017-MMD
Bankruptcy Case No. 13-10499-lbr
Chapter 11
Adversary No. 10-01452-lbr

CHARLESTON ASSOCIATES, LLC, a
Delaware limited liability company,

Plaintiff,

v.

RA SOUTHEAST LAND COMPANY, LLC,
a Nevada limited liability company, et al.

Defendant.

ORDER

(Motion to Dismiss – dkt. no. 21)

CHARLES ASSOCIATES, LLC,

Appellant,

v.

RA SOUTHEAST LAND COMPANY, LLC
and CITY NATIONAL BANK,

Appellees.

This case involves an appeal of certain orders of the Bankruptcy Court under 28 U.S.C. 158(a). Before the Court is Appellee RA Southeast Land Company, LLC's ("RAS") Motion to Dismiss Appeal for Nonprosecution. (Dkt. no. 21.) Appellant Charleston Associates, LLC ("Charleston") has filed a response (dkt. no. 23) and RAS


1 has filed its reply (dkt. no. 25). Appellee City National Bank joins in RAS's motion and
2 reply.

3 Charleston filed its notice of appeal on January 3, 2014. (Dkt. no. 1.) On March 6,
4 2014, the Clerk of the Bankruptcy Court filed a status report ("Status Report") notifying
5 the Court that the record on appeal has not been forwarded to this Court because no
6 reporter's transcripts for the three relevant hearings have been filed. (Dkt. no. 15.) RAS
7 filed its Motion on December 18, 2014. (Dkt. no. 21.)

8 RAS argues that the Court should dismiss this appeal for lack of prosecution
9 because as of the filing of its Motion, Charleston had not made any attempts to
10 prosecute this appeal. Charleston filed the certificate of interested parties and a pro hac
11 vice petition, but had taken no further action, including ordering the reporter's transcripts
12 even after receiving notice of this deficiency in the Status Report. Charleston countered
13 that it did order the reporter's transcripts and filed a notice of ordering transcript on
14 January 17, 2014. (Dkt. no. 23-1.) According to Charleston, there was a
15 miscommunication with the court reporter as to the required deposit, but the error had
16 been corrected and Charleston reordered the transcripts on December 31, 2014.

17 The Court agrees with RAS that Charleston's explanation does not clarify the
18 nine months delay in correcting the error upon notice of the error as evidenced in the
19 March 2014 Status Report. However, the Court finds that the administrative error here
20 does not warrant dismissal of the appeal for lack of prosecution. It is therefore ordered
21 that RAS' Motion to Dismiss Appeal for Nonprosecution (dkt. no. 21) is denied.

22 DATED THIS 22nd day of September 2015.

23
24 
25 MIRANDA M. DU
26 UNITED STATES DISTRICT JUDGE
27
28